

Legislating Against Elder Abuse: Canadian Trends, Comparative Chart



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Jurisdiction	Scope of Application	Type(s) of Abuse/Neglect	Reporting Requirement	Designated/Investigative Agency	Investigative Powers	Outcome of Investigation/Actions	Comments
British Columbia <i>Adult Guardianship Act, R.S.B.C. 1996, c. 6.</i>	Adults ¹ who are abused and neglected and who are unable to seek support or assistance. ² Adults who are abused or neglected in a public place, in the adult's home, a care facility, or any other place except a correctional centre. ³	Physical, mental, and emotional abuse; damage to or loss of assets; neglect and self-neglect.	Generally, voluntary; however, designated agencies have a duty to report the commission of a criminal offence to the police. ⁴	The Ministry of Children and Family Development, and the five Health Authorities in British Columbia. ⁶	The investigative authority must investigate when a report received. ⁷ Investigators must make reasonable efforts to interview the adult. ⁸ Investigators may obtain any information that the circumstances require. ⁹ Investigators may apply for a court order for entry onto premises. ¹⁰ In emergencies, investigators may enter premises without a court order, remove the adult from the premises; provide the adult with emergency health care; and inform the Public Guardian and Trustee that the adult's financial affairs need immediate protection. ¹¹	Possible outcomes from investigations include: taking no further action, referring the adult to available services, reporting the situation to the Public Guardian and Trustee or other agency; assisting the adult in making a representation agreement; applying for a court order that the suspected abuser stay away from the adult; applying to the court for a maintenance order under the <i>Family Relations Act</i> , ¹² or preparing a support and assistance plan. ¹² Adults may choose to reject a support and assistance plan. However, if the adult is incapable of deciding not to accept the services proposed in the plan, the designated agency may apply to the court for an order authorizing the provision of services to the adult.	Other relevant legislation: <i>Representation Agreement Act, R.S.B.C. 1996, c. 405.</i> <i>Health Care (Consent) and Care Facility (Admission) Act, R.S.B.C. 1996, c. 181.</i> <i>Public Guardian and Trustee Act, R.S.B.C. 1996, c. 383.</i> <i>Patients Property Act, R.S.B.C. 1996, c. 349.</i> <i>Power of Attorney Act, R.S.B.C. 1996, c. 370.</i> <i>Family Relations Act, R.S.B.C. 1996, c. 128.</i> <i>Human Rights Code, R.S.B.C. 1996, c. 210.</i>
Alberta <i>Protection for Persons in Care Act, R.S.A. 2000, c. P-29</i>	Adults who receive services from an agency. ¹	Intentional physical or emotional harm, intentional abuse of medication, sexual abuse, intentional misappropriation of money or other valuable possessions, intentional failure to provide the necessities of life. ¹⁴	Mandatory. ¹⁵	Ministry of Seniors and Community Support. ¹⁶	The Minister must appoint a person to investigate as quickly as possible. The investigator may enter an agency at any reasonable hour and has access to inspect and copy records. ¹⁴	The investigator must prepare a final report to the Minister and make recommendations including review or alteration in funding for agencies, disciplinary action against an employee or service provider, dismissal of the complaint or any other appropriate recommendation. ¹⁴ The Minister may approve the recommendations in whole or part or take any other action deemed appropriate. ²⁰ If the subject-matter of the complaint could constitute a <i>Criminal Code</i> offence, the Minister or the investigator must refer the complaint to the police as soon as possible. ²¹	Other relevant legislation: <i>Protection Against Family Violence Act, R.S.A. 2000, c. P-27.</i> <i>Dependent Adult Act, R.S.A. 2000, c. D-11.</i> <i>Personal Directives Act, R.S.A. 2000, c. P-6.</i> <i>Powers of Attorney Act, R.S.A. 2000, c. P-20.</i> <i>Mental Health Act, R.S.A. 2000, c. M-13.</i> <i>Maintenance Order Act, R.S.A. 2000, c. M-2.</i> <i>Human Rights, Citizenship and Multiculturalism Act, R.S.A. 2000, c. H-14.</i>
Manitoba <i>Protection for Persons in Care Act, C.C.S.M., c. P44</i>	An adult resident, in – patient or person receiving respite care in a health facility. ²²	Mistreatment, whether physical, sexual, mental, emotional, financial that causes or is reasonably likely to cause death or serious physical or psychological harm to a person or significant loss to property. ²³	Mandatory. ²⁴	Ministry of Health, Protection for Persons in Care Office. ²⁵	The Minister must inquire into the report of abuse and consider whether a more extensive investigation is warranted. ²⁶ The Minister shall appoint an investigator if there are reasonable grounds to believe that a patient is or is likely to be abused. ²⁷ The investigator has the right to enter a health facility and has access to information and records. ²⁸ Operators of health facility must assist the investigator. ²⁹ The investigator, when making a report must, to the fullest practical extent, involve the patient and determine and accommodate the patient's wishes. ³⁰	On receiving the investigator's report, the Minister may give the operator of the health facility any directions the Minister considers necessary to protect the patient from abuse. ³¹ If the minister believes that a person has abused a patient or failed to report abuse, the Minister may refer the matter to the body or person that governs the person's professional status. ³²	Other relevant legislation: <i>Domestic Violence and Stalking Prevention Protection and Compensation Act, C.C.S.M., c. D93.</i> <i>Mental Health Act, C.C.S.M., c. M110.</i> <i>Vulnerable Persons Living with a Mental Disability Act, C.C.S.M., c. V90.</i> <i>Powers of Attorney Act, C.C.S.M., c. P97.</i> <i>Health Care Directives Act, C.C.S.M., c. H27.</i> <i>Human Rights Code, C.C.S.M., H175.</i>

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Saskatchewan <i>Victims of Domestic Violence Act, S.S. 1994, c. V-6.02</i>	Persons who reside or resided together in a family, spousal or intimate relationship or parents. ³³	Harm to physical person or property, forced confinement, sexual abuse. ³⁴	Voluntary. ³⁵	Emergency intervention order may be granted by a justice of the peace. ³⁶ Victim's assistance order may be made by the Court of Queen's Bench. ³⁷	N/A	An emergency intervention order may be granted where domestic violence has occurred and because of seriousness or urgency, the order should be made immediately to protect the victim. ³⁸ A victim's assistance order may be granted where domestic violence has occurred. ³⁹	This is a domestic violence statute. Saskatchewan has not enacted a comprehensive adult protection statute. Other relevant legislation: <i>Adult Guardianship and Co-decision-making Act, S.S. 2000, c. A-5.3; Powers of Attorneys Act, 2002, S.S. 2002, c. P-20.3; Health Care Directive and Substitute Health Care Decision Makers Act, S.S. 1997, c. H-0.001; Personal Care Homes Regulation, 1996, c. P-6.01; Public Guardian and Trustee Act, S.S. 1983 c. P-36; Saskatchewan Human Rights Code, S.S. 1979, c. S-24.1</i>
Ontario <i>Nursing Homes Act, R.S.O. 1990, c. N.7</i>	Adults residing in a nursing home. ⁴⁰	Mental abuse, physical abuse ⁴¹ and neglect ⁴²	Mandatory. ⁴³	The Director at the Ministry of Health. ⁴⁴	The Director must immediately investigate upon the receipt of a report, or a complaint from a licensee. ⁴⁵	N/A	The <i>Nursing Homes Act</i> is currently the only legislation in Ontario dealing with the reporting of abuse. However, Ontario government policies found in the Long Term Care Standards Manual may extend the reporting requirement across all Long-Term Care Facilities. Other relevant legislation: <i>Homes for the Aged and Rest Homes Act, R.S.O. 1990, c. H.13; Charitable Institutions Act, R.S.O. 1990, c. C.9; Long-Term Care Act, 1994, S.O. 1994, c. 26; Substitute Decisions Act, 1992, S.O. 1992, c. 30; Health Care Consent Act, 1996, S.O. 1996, c. 2; Schedule A; Human Rights Code, R.S.O. 1990, c. H.19.</i>
Quebec <i>Charte de Droits et Libertés de la Personne, R.S.Q., c. C-12</i>	Ageed or handicapped persons who may be exploited. ⁴⁶	Harm to person or property.	Voluntary	Commission des Droits de la Personne et des Droits de la Jeunesse. ⁴⁷	In emergencies the Commission may apply to a tribunal for an emergency measure capable of putting an end to the threat posed to the adult's life or safety. ⁴⁸	The Commission may support a settlement between the two parties ⁴⁹ , suggest arbitration ⁵⁰ , or refer any unsettled issue to a tribunal. ⁵¹ The Commission also has the power to report to the Public Curator any case it becomes aware of where protective supervision within the jurisdiction of the Public Curator is required. ⁵²	Other relevant legislation: <i>Civil Code of Quebec, L.Q. 1991, c. 64, Title IV: Capacity of Persons; Chapter III: Protective Supervision of Persons of Full Age.</i> <i>Public Curator Act, R.S.Q. c. 81.</i>

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Nova Scotia <i>Adult Protection Act</i> R.S.N.S. 1989, c. 2	Adults ³⁷ who are physically or mentally incapable and not living in a care facility ³⁴	Physical, sexual, and mental abuse; neglect ³¹ and self-neglect	Mandatory ³⁵	Minister of Health ³⁷	The Minister must investigate when a report is received. The Minister may order and authorize a medical exam of the person.³⁴ If the investigation is impeded or the adult refuses to cooperate, a court order for entry may be issued.³⁴	If the adult is found to be in need of protection, the Minister must assist the person in obtaining appropriate services³⁹ and may apply to court for an order restraining third parties. If the person is not willing to accept help, and is found by the court to be mentally incompetent or refusing help because of duress, the court may order provision of appropriate services.⁴¹	This Act is currently under review. Other relevant legislation: <i>Adult Protection Act</i>, R.S.N.S. 1989, c. 2. <i>Homes for Special Care Act</i>, R.S.N.S. 1989, c. 203. <i>Domestic Violence Intervention Act</i>, S.N.S. 2001, c. 29. <i>Incompetent Persons Act</i>, R.S.N.S. 1989, c. 218. <i>Powers of Attorney Act</i>, R.S.N.S. 1989, c. 352. <i>Human Rights Act</i>, R.S.N.S. 1989, c. 214. <i>Protection of Persons in Care Act</i>, S.N.S. 2004, c. 33 (not in force)
New Brunswick <i>Family Services Act</i> S.N.B. 1980, c. F-22, Part III	Physically or mentally disabled or elderly adults ⁴²	Physical, sexual, and mental abuse as well as those in danger of being abused, neglect and self-neglect. ⁴³	Voluntary; professionals are protected from liability. ⁴⁴	Minister of Family and Community Services ⁴⁵	The Minister must investigate if there is reason to believe a person is abused or neglected. The Minister may order and authorize medical exam and report; consent of the person being examined is not required. If the investigation is impeded or the adult refuses to cooperate, a court order for entry may be issued.⁴⁴ After an application regarding assistance for a mentally incapable neglected or abused adult but pending final outcome, the court may order the person into hospital care.⁴⁷ If there is reason to believe that a person is neglected or abused because of the presence of another person, the Minister may apply for a warrant to remove the offending person, pending a final order.⁴⁸	If a person is found to be a neglected or abused adult: The Minister may provide social services to the person or refer the matter to another agency or service.⁴⁶ If the neglected or abused person is also found to be mentally incompetent: The Minister may apply for orders respecting residence, supervision, and care and control of property of the person, orders respecting the removal or restraint of 3rd parties, and orders authorizing the Minister to give medical consent on behalf of the person.⁴⁹ If the person is also in danger⁵¹ and has refused services, the person may be put under (temporary/emergency) protective care.⁵²	With respect to the exercise of any authority given under the Act to make a decision that affects a neglected or abused adult, the wishes, interests, and concerns of the adult must be taken into consideration. If the adult is unable to express those wishes, the Minister must try to identify them and give them consideration.⁵³ Other relevant legislation: <i>Mental Health Act</i>, R.S.N.B. 1973, c. M-10. <i>Infirm Persons Act</i>, R.S.N.B. 1973, c. I-8. <i>Nursing Homes Act</i>, S.N.B. 1982, c. N-11. <i>Human Rights Act</i>, R.S.N.B. 1973, c. H-11.

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Prince Edward Island Adult Protection Act R.S.P.E.I. 1988, c. A-5	Adults ⁴⁴ who are physically, mentally, or otherwise incapable. ⁴⁵	Offensive mistreatment (physical, sexual, emotional or material) causing or likely to cause severe physical or psychological harm or significant material loss to the victim's estate ⁴⁶ and neglect ⁴⁷ and self-neglect. ⁴⁸	Voluntary ⁴⁹	Minister of Health and Social Services ⁴⁰	Upon receipt of a report, or on reasonable grounds, the Minister may make a preliminary investigation and consider whether an extensive investigation or assessment is necessary.⁴¹ Any person involved with the adult being assessed must cooperate with the Minister; if cooperation is not adequate a court order may be made for the assessment.⁴²	If, based on the assessment, the person is determined to be in need of assistance or protection, the Minister must formulate a "general care plan" of services and interventions that serve the needs of the person.⁴³ Assistance provided may include provision, arrangement, or payment for health, social or other type of service that is determined necessary for the person's welfare.⁴⁴ The assessed adult must consent to the assistance.⁴⁵ Protective intervention orders are available where consent to assistance is not given or the person has been determined by assessment to be in need of protection.⁴⁶ Such orders may direct supervision by the Minister,⁴⁷ removal of the person,⁴⁸ or restraint/removal of another person.⁴⁹ An order for the provision of health care can be made regardless of the status of a protection application, if urgent.⁵⁰ Where the person is unable to make reasonable judgments and it seems the need for assistance or protection will persist, a guardian may be appointed.⁵¹ Temporary guardianship is available where the person's inability is causing risk of harm to the person or estate.⁵²	This Act is currently under review The Act is to be administered with respect for a number of guiding principles.⁵³ An assessment to determine what, if any, assistance or protection is necessary must be a comprehensive investigation of the person's condition, circumstances and needs, and include a number of factors related to the individual's needs and abilities.⁵⁴ Other relevant legislation: <i>Adult Protection Act</i>, R.S.P.E.I. 1988, c. A-5. <i>Victims of Family Violence Act</i>, R.S.P.E.I. 1988, c. V-12. <i>Community Care Facilities and Nursing Home Act</i>, R.S.P.E.I. 1988, c. C-13. <i>Nursing Home Regulation</i>, P.E.I. Reg. EC1038. <i>Mental Health Act</i>, R.S.P.E.I. 1988, c. M-6.1. <i>Health and Community Services Act</i>, R.S.P.E.I. 1988, c. H-1.1. <i>Powers of Attorney Act</i>, R.S.P.E.I. 1988, c. P-16. <i>Human Rights Act</i>, R.S.P.E.I. 1988, c. H-12.
Newfoundland and Labrador Neglected Adults Welfare Act R.S.N.L. 1990, c. N-3	Adults ⁵⁵ who are mentally or physically incapable of caring properly for themselves, but not suitable to be in a treatment facility under the <i>Mental Health Act</i> . ⁵⁶	Neglect and self-neglect. ⁴⁹	Mandatory ⁵⁵	Director of Neglected Adults (Ministry of Health and Community Services) ⁵⁷	Upon receipt of a report of suspected neglect, the director must make an investigation. The director may obtain a warrant for the investigation, if the adult or a person with custody or control of the person will not cooperate.⁵⁸ At any time pending a final determination, the court may order the removal of the adult to a hospital or other place immediately.⁵⁹	If, based on the investigation, the director finds the person to be a neglected adult, an application to court for declaration of neglect may be made.⁶⁰ The court may order that a neglected adult remain in the current living situation, subject to supervision by the director; be removed to a more suitable living situation, subject to supervision by the director; be committed to the care and control of the director; or order the adult's placement in an institution.⁶¹ Hospitalization may also be ordered.⁶² If the neglected adult is removed from the current living situation, the court may declare the adult to be a dependant. The person with care and control of the adult may then apply for an order for financial support.⁶³	Other relevant legislation: <i>Mental Health Act</i>, R.S.N.L. 1990, c. M-9. <i>Mentally Disabled Persons' Estates Act</i>, R.S.N.L. 1990, c. M-10. <i>Advance Health Care Directives Act</i>, S.N.L. 1995, c. A-4.1. <i>Health and Community Services Act</i>, S.N.L. 1995, c. P-37.1. <i>Personal Care Home Regulations Under the Health and Community Services Act</i>, N.L.R. 15/01. <i>Homes for Special Care Act</i>, R.S.N.L. 1990, c. H-5. <i>Human Rights Code</i>, R.S.N.L. 1990, c. H-14.

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Yukon <i>The Adult Protection and Decision Making Act</i> being Schedule A to the <i>Decision-Making Support and Protection to Adults Act</i> , S.Y. 2003, c. 21 also consists of three other Parts that may help to protect adults from abuse. Part One consists of Supported Decision-Making Agreements, Part Two consists of Representation Agreements, and Part Three consists of Court-Appointed Guardians.	Adults ¹⁰⁶ who are abused and neglected and who are unable to seek support or assistance. ¹⁰⁷ Adults who are abused or neglected in a public place, in the adult's home, a care facility, or any other place except a correctional centre. ¹⁰⁸	Physical, mental, and emotional abuse; damage to or loss of assets; neglect and self-neglect.	Voluntary. ¹⁰⁹ Anyone who makes a malicious and false report commits an offence under the act. ¹¹⁰	Subject to Regulations. ¹¹¹	An investigative authority must make an inquiry when a report is received. ¹¹² Investigators have a duty to attempt to interview the adult. ¹¹³ Investigators may obtain any information that the circumstances require. ¹¹⁴ Investigators may apply for a court order for entry onto premises. ¹¹⁵ Investigators have the right to request information without the adult or the guardian's consent. Information is exempt from any claims of confidentiality or privilege, other than a claim based on solicitor-client privilege. ¹¹⁶ In emergencies, investigators may enter premises without a court order, remove the adult from the premises, provide the adult with emergency health care, and inform the Public Guardian and Trustee that the adult's financial affairs need immediate protection. ¹¹⁷	Possible outcomes from investigations include taking no further action ¹¹⁸ ; referring the adult to available services, reporting the situation to the Public Guardian and Trustee; reporting the matter to the Royal Canadian Mounted Police; referring the matter to a community process based on restorative justice principles; applying for an adult protection order, or applying for an order under the <i>Family Property and Support Act</i> for the adult's maintenance. ¹¹⁹	<i>The Adult Protection and Decision Making Act</i> being Schedule A to the <i>Decision-Making Support and Protection to Adults Act</i> , S.Y. 2003, c. 21 also consists of three other Parts that may help to protect adults from abuse. Part One consists of Supported Decision-Making Agreements, Part Two consists of Representation Agreements, and Part Three consists of Court-Appointed Guardians. Other relevant legislation: <i>Family Violence Protection Act</i> , R.S.Y. 2002, c. 84. <i>Care Consent Act</i> , being Schedule B to the <i>Decision-Making Support and Protection to Adults Act</i> , S.Y. 2003, c. 21. <i>Public Guardian Trustee Act</i> , being Schedule C to the <i>Decision-Making Support and Protection to Adults Act</i> , S.Y. 2003, c. 21. <i>Enduring Power of Attorney Act</i> , R.S.Y. 2002, c. 73. <i>Human Rights Act</i> , R.S.Y. 2002, c. 73.
Northwest Territories <i>Family Violence Act</i> , S.N.W.T. 2003, c. 24	Spouse, former spouse, person's resident or who are residing together in a family or intimate relationship, ¹²⁰ parents or grandparents	Harm to physical person or property, sexual abuse, forced confinement, emotional, psychological or financial abuse. ¹²¹	Voluntary. ¹²²	Emergency protection order may be made by a justice of the peace. ¹²³ Protection order may be made by the Supreme Court. ¹²⁴	N/A	An emergency protection order may be made where family violence has occurred and because of seriousness or urgency the order should be made without delay to protect the person or property. ¹²⁵ A protection order may be made where family violence has occurred. ¹²⁶	This is a domestic violence statute. The Northwest Territories has not enacted a comprehensive adult protection statute. Other relevant legislation: <i>Guardianship and Trusteeship Act</i> , S.N.W.T. 1994, c. 29; <i>Mental Health Act</i> , R.S.N.W.T. 1988, c. M-10; <i>Human Rights Act</i> , S.N.W.T. 2002, c. 18.
Nunavut <i>Guardianship and Trusteeship Act</i> , R.S.N.W.T. 1994, c. 29 as duplicated for Nunavut by s. 29 of the <i>Nunavut Act</i>	Incapable adult unable to understand information for making decisions or appreciate the consequences of decision about personal health care or property. ¹²⁷	Can cover harm to physical person, property but focus is on mental capability of person. ¹²⁸	Voluntary. ¹²⁹	Guardianship order or trusteeship order is made by the Supreme Court. ¹³⁰ Public Guardian or Public Trustee may be appointed guardian or trustee if there is no one else to act. ¹³¹	N/A	Guardianship order will specify the power of the guardian and give guardian power to decide things such as where adult is to live, health care decisions, day-to-day decisions and so forth. ¹³² Trusteeship order will specify what trustee can do with respect to estate of adult. ¹³³	This is an adult guardianship statute. Nunavut has not enacted a comprehensive adult protection statute. Other relevant legislation: <i>Mental Health Act</i> , R.S.N.W.T. 1988, c. M-10 as duplicated for Nunavut by s. 29 of the <i>Nunavut Act</i> <i>Human Rights Act</i> , S. Nu. 2003, c. 12.

- 1 "Adult" is defined in s. 1 as anyone who has reached 19 years of age.
- 2 s. 44. Reasons for being unable to seek support include: "physical restraint", "a physical handicap that limits their ability to seek help", or "an illness, disease, injury or other condition that affects their ability to make decisions about the abuse or neglect".
- 3 s. 45(1)
- 4 s. 46(1)
- 5 s. 50
- 6 *Designated Agency Regulation*, B.C. Reg. 19/2002
- 7 According to s. 47 the investigative authority must also investigate if they "have reason to believe that an adult is abused or neglected" or "received a report that the adult's representative, decision-maker, guardian or monitor has been hindered from visiting or speaking with the adult".
- 8 s. 48(2) The investigative agency may also interview anyone else who may assist in the investigation.
- 9 s. 48(2)(b) This includes reports from "a health care provider who has examined the adult", "any agency that provides or has provided health or social services to the adult", and "any person that manages the adult's financial affairs, business or assets".
- 10 s. 49
- 11 s. 59
- 12 s. 51
- 13 Agency is defined in s. 1(b) to mean an approved hospital as defined in the *Hospitals Act*, a lodge accommodation as defined in the *Alberta Housing Act*, a nursing home as defined in the *Nursing Homes Act*, a facility as defined in the *Social Care Facilities Review Committee Act*, or any institution organization designated by regulation as an agency.
- 14 s. 1(a), definition of abuse. The last clause of the definition "intentionally failing to provide adequate nutrition, adequate medical attention or other necessity of life without a valid consent" could arguably constitute neglect.
- 15 s. 2(1) There are two exceptions to the mandatory reporting: information privileged as a result of a solicitor-client relationship (s. 2(3)) and a client "may" report abuse against their person but is not required to (s. 3).
- 16 s. 1(b)
- 17 s. 6(2)
- 18 s. 7
- 19 s. 8(3)
- 20 s. 8(4)
- 21 s. 8(2)
- 22 s. 1, definition of patient; the definition does not include a vulnerable person within the meaning of *The Vulnerable Persons Living with a Mental Disability Act*. Health facility is defined in s. 1 to mean a hospital designated by regulation under *The Health Services Insurance Act*, a personal care home designated by regulation under *The Health Services Insurance Act* or an institution or organization designated as a health facility by regulation.
- 23 s. 1, definition of abuse
- 24 s. 3(1) There are two exceptions to the mandatory reporting: information privileged as a result of a solicitor-client relationship (s. 3(2)) and a patient "may" report abuse against their person but is not required to (s. 4).
- 25 s. 1
- 26 s. 5(1)
- 27 s. 5(2)
- 28 s. 6(2)
- 29 s. 6(3)
- 30 s. 7(2)
- 31 s. 8(1)
- 32 s. 9(1)
- 33 s. 2(a), definition of cohabitants
- 34 s. 2(d), definition of domestic violence
- 35 s. 8(1)
- 36 s. 3(1)
- 37 s. 7(1)
- 38 s. 3(1). See s. 3(3) for the provisions in an emergency intervention order.
- 39 s. 7(1), this subsection also lists the provisions in a victim's assistance order
- 40 "Nursing home" is defined in s. 1 as any premise maintained and operated for persons requiring nursing care or in which such care is provided to two or more unrelated persons. This definition does not include private or public hospitals, municipal homes or charitable homes.
- 41 s. 2(2)
- 42 Insofar as neglect encompasses the right to be properly sheltered, fed, clothed, groomed and cared for in a manner consistent with his or her needs. S. 2(2).
- 43 s. 25(1)
- 44 Appointed under s. 3(2)
- 45 s. 25 and s. 26
- 46 s. 41
- 47 s. 57
- 48 s. 81
- 49 s. 79
- 50 s. 79
- 51 s. 80
- 52 s. 71(3)
- 53 "Adult" is defined in s. 3(a) as a person who is or is apparently sixteen years of age or older
- 54 *The Homes for Special Care Act*, R.S.N.S. 1989, c. 203 covers care facilities; however, it is silent on the subject of abuse in care facilities.

- 35 s. 3(b).
- 36 Section 5 creates a duty for every person who has information that an adult is in need of protection, even the information is confidential or privileged, to report. Informants are protected from liability for making a report in good faith.
- 37 Under s. 3(e) of the Act, the Minister of Community Services is the responsible Minister. In 2000 responsibility was transferred to the Minister of Health by Order in Council.
- 38 s. 6.
- 39 s. 8.
- 40 s. 7.
- 41 s. 9. The court may authorize the Minister to provide the adult with services, such as placement in a care home or make an order regarding any person who the court considers to be a source of danger to the adult in need of protection.
- 42 s. 1. "elderly" means sixty-five years of age and over.
- 43 s. 34(1) and (2).
- 44 s. 35.1 protects professionals who, in good faith, disclose information about a possibly neglected or abused adult to the Minister, including information obtained in their professional capacity. "Professional" is defined in s. 35.1(5). The Act is silent regarding non-professional people reporting suspected cases of abuse or neglect.
- 45 s. 1.
- 46 s. 35(1-3).
- 47 s. 40(2), where a medical practitioner certifies that it is necessary in the interests of the person's health.
- 48 s. 36(1).
- 49 s. 37(1), 39(1). The court may also make any other order considered appropriate under the circumstances. Per s. 40(1), if hospital treatment is necessary, an order under s. 39(1) may include an order for hospitalization.
- 50 Per s. 37.1(1)(a)-(b), the security of a person may be in danger for a number of reasons including: being without adequate care or supervision, living in unfit circumstances, likely to injure self or others, etc.
- 51 s. 37.1(1)(b) and 37.1. Protective care under s. 37.1 is an emergency measure that involves making adequate provision for the person's care. The Minister may leave the person in the current residence, move the person to a new residence, or arrange for medical treatment without the consent of any other person. Within five days of putting a person under protective care under this section, the Minister must either release the person or apply for an order under s. 39(1) (see note 16).
- 52 s. 36.1(1) and (2). Additionally, s. 36.1(4) clarifies that in any proceeding affecting a neglected or abused adult, the adult has the right to be heard.
- 53 Per s. 1(b), and "adult" is anyone who has attained the age of majority.
- 54 Section 1(b) and (i) define "in need of assistance" and "in need of protection". A person in need of assistance is one who is in serious risk of falling into need of protection. A person in need of protection is one who requires intervention for the preservation of security and well-being, the necessity for which arises because, "owing to physical or mental infirmity or disability or other incapacity to remedy the situation himself", the person is continually: a victim of abuse, neglect, incapable of caring for him or herself, or fails to arrange for appropriate care.
- 55 s. 1(i) and 1(i)(i).
- 56 s. 1(i) and 1(i)(i).
- 57 s. 1(i) and 1(i)(i).
- 58 s. 4(1).
- 59 s. 10. The identity of a person who makes a report is protected under s. 4(2). Section 4(3) provides protection from liability for making a report in good faith.
- 60 s. 5.
- 61 s. 7. A court order may be granted under this section where the adult to be assessed does not consent to the assessment, if "evidently unable to make a reasonable judgment about giving consent".
- 62 s. 8(1). Section 8(2) stresses that the assessed person must be involved and informed as fully as possible in the making of the case plan.
- 63 Section 10 lists a number of services that might be provided, such as physiotherapy, counselling, vocational training, legal counsel, and concludes with the catch-all category of any other service.
- 64 Section 10 also requires that "any person apparently exercising supervisory responsibility does not object".
- 65 s. 11 and 12(1).
- 66 s. 12(2).
- 67 s. 12(3).
- 68 s. 12(4).
- 69 s. 13.
- 70 ss. 15 and 16.
- 71 s. 17. Temporary guardianship orders are for a maximum of thirty days, renewable upon application. They are limited in scope to matters of accommodation, health care and supervision of routine daily living requirements and financial management only for purposes of immediate need and to prevent loss to the estate.
- 72 s. 3.
- 73 The factor to be taken into consideration enumerated in s. 4(2) are: health, social, residential, economic, vocational, and educational, as well as conditions related to the person's abilities to cope with circumstances, make reasonable judgments and provide for his or her own security and needs.
- 74 Defined in s. 2(a) as a person who is not a child within the meaning of the *Child, Youth and Family Services Act*.
- 75 s. 2(a)(i) and (ii).
- 76 s. 2(a)(ii) and (iv). Neglect includes not receiving proper care and attention and refusing, delaying, or being unable to make provision for proper care and attention for oneself.
- 77 Section 4 creates a duty for every person who has information that an adult is a neglected adult, even the information is confidential or privileged, to report. Informants are protected from liability for making a report in good faith.
- 78 The Minister of Social Services is named in s. 2(b), however responsibility is now with the Ministry of Health and Community Services. Per s. 3, the responsibility for administration and enforcement of the Act falls to an appointed Director of Neglected Adults under the control and direction of the minister.
- 79 s. 5. The investigation may include ordering a medical examination and report.
- 80 s. 8. A medical practitioner must certify that in his or her opinion such a move is necessary in the interest of the adult.
- 81 s. 6(1-3). The person who is the subject of the application or a person having custody or control of that person must be notified of the application. The judge may compel witnesses, however, the Act is silent on whether the affected adult must be heard.
- 82 s. 6(4). Per s. 6(9), the court must not order the removal of a neglected adult to an institution unless the court is of the opinion that adequate care and attention cannot be provided in the premises in which the adult is living. At any time after the expiration of four weeks from the making of an order under s. 6(4), the order may be varied or rescinded on application by the director or the neglected adult.
- 83 s. 6(10).
- 84 s. 6(5). Part III of the Family Law Act is referenced in this subsection.

109. "Adult" is defined in s. 1 as a person who has reached 19 years of age.
110. s. 59(b) Reasons for being unable to seek support include: "physical or chemical restraint", "a physical or intellectual disability that limits their ability to seek help", "an illness, disease, injury, or other condition that affects their ability to seek help", or "any similar reason".
111. s. 60(1).
112. s. 61.
113. s. 83(1)(a).
114. s. 84(1)(o).
115. s. 62(2).
116. s. 63.
117. s. 65(e) This includes reports from "a health care provider who has examined the adult", "any agency that provides or has provided health or social services to the adult", and "any person that manages the adult's financial affairs, business or assets".
118. s. 64.
119. s. 67.
120. s. 78.
121. s. 68.
122. s. 69.
123. s. 2(1).
124. s. 1(2), definition of family violence.
125. s. 2(1).
126. s. 4(1).
127. s. 7(1).
128. s. 7(1).
129. s. 7(1) and 31(1).
130. *Ibid.*
131. s. 2(1) and 27(1).
132. *Supra* note 35.
133. s. 8(1)(b) and 32(1)(b).
134. s. 11(2).
135. s. 36(2).

